

## SECTION 2325: PERFORMANCE GUARANTEES AND PERFORMANCE BONDING FOR COMPLIANCE

1. Requirements: In authorizing a Temporary Permit, Development Permit, Site Plan approval, Special Use Permit, Planned Unit Development approval or variance, the body or official(s) which approves the respective request, as designated by this Ordinance, may require that a performance guarantee or bond be furnished to insure:
  - a. Compliance with the requirements, specifications and conditions imposed with the grant of such approval, permit or variance;
  - b. The discontinuance of a temporary use by a stipulated time; and to provide sufficient resources for the City to complete required improvements or conditions in the event the permit holder does not.
2. Improvements Covered: Improvements that shall be covered by the performance guarantee or bond include, but are not necessarily limited to: streets and other roadways, utilities, fencing, screening, landscaping, common open space improvements, lighting, drainage and sidewalks. The performance guarantee shall meet the following requirements:
  - a. Form: The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the City, which names the property owner as the obligor and the City as the obligee.
  - b. Time when required: The performance guarantee or bond shall be submitted at the time of issuance of the permit authorizing the activity or the project. If appropriate, based on the type of performance guarantee submitted, the City shall deposit the funds in an account in a financial institution with which the City regularly conducts business.
  - c. Amount: The amount of the performance guarantee or bond shall be sufficient to cover the estimated cost of the improvements or conditions. Additional guidelines for establishing the amount of a performance guarantee or bond may be prescribed by resolution of the City Commission.
3. Return of Performance Guarantee or Bond: The City, upon the written request of the obligor, and pursuant to the procedure in the next subsection, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement or condition.
4. Withholding and Partial Withholding of Performance Bond: As required improvements are completed, or when all of the required improvements have been completed, the obligor shall send written notice to the zoning administrator of completion of said improvements. Thereupon, the zoning administrator shall inspect all of the improvements

and shall transmit recommendation to the Planning Commission and City Commission indicating either approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejections. If partial approval is indicated, the cost of the improvement or condition rejected shall be presented.

- a. The Planning Commission shall recommend and the City Commission shall either approve, partially approve or reject the improvements or conditions with the recommendation of the zoning administrator's written statement and shall notify the obligor in writing of within sixty (60) days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee or bond, except for that portion adequately sufficient to secure provision of the improvements not yet approved.
  - b. Should installation of improvements begin and fail to meet full completion based on the approved Site Plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the City may complete the necessary improvements or conditions itself or by contract, and assess all costs of completing the improvements or conditions against the performance guarantee or bond. Any balance remaining would be returned to the applicant. Any amount spent in excess of the money or guarantee on deposit shall be assessed against the property.
5. Record of Performance Guarantees: the City shall maintain a record of authorized performance guarantees.